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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
INVESTIGATING THE FEASIBILITY OF REFUNDS TO NATIVE AMERICAN
VETERANS FOR STATE PERSONAL INCOME TAXES IMPROPERLY WITHHELD
FROM MILITARY PAY; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. LEGISLATIVE FINDINGS.--

A. Native Americans have had a long history of
serving their country through active duty in the armed forces
of the United States during periods of both war and peace and
have made great sacrifices in serving their country through
active duty in the military during periods of war and peace.

B. Native American veterans domiciled on tribal
lands during their periods of active military service may
have been exempt from paying state personal income taxes on
their military income, but may have had state personal income
taxes improperly withheld from their military income.

C. Native American veterans now are barred by the
state statute of limitations from claiming refunds of state
personal income taxes that may have been improperly withheld
from their military income, and even if not barred by the
statute of limitations, the passage of time extending to
decades will make it difficult for many Native American
veterans to meet strict standards of proof that they are

1 entitled to a refund of improperly withheld state personal
2 income taxes.

3 D. It is incumbent upon the state to ensure that
4 it was not unjustly enriched by the improper withholding of
5 state personal income taxes from Native American veterans,
6 and the state should implement a feasible means of refunding
7 to Native American veterans any state personal income taxes
8 that were improperly withheld from military pay.

9 Section 2. DEFINITIONS.--As used in this act:

10 A. "department" means the veterans' services
11 department;

12 B. "fund" means the Native American veterans'
13 income tax settlement fund; and

14 C. "secretary" means the secretary of veterans'
15 services.

16 Section 3. NATIVE AMERICAN VETERANS' INCOME TAX
17 SETTLEMENT FUND--CREATED--PURPOSE--APPROPRIATIONS.--

18 A. The "Native American veterans' income tax
19 settlement fund" is created as a nonreverting fund in the
20 state treasury and shall be administered by the department.
21 The fund shall consist of money that is appropriated or
22 donated or that otherwise accrues to the fund. Money in the
23 fund shall be invested by the state investment officer in the
24 manner that land grant permanent funds are invested pursuant
25 to Chapter 6, Article 8 NMSA 1978. Income from investment of

1 the fund shall be credited to the fund.

2 B. The department shall establish procedures and
3 adopt rules as required to administer the fund and to make
4 settlement payments from the fund as approved by the
5 secretary.

6 C. Money in the fund is appropriated to the
7 department to make settlement payments to Native American
8 veterans who had state personal income taxes improperly
9 withheld from their military pay. Money shall be disbursed
10 from the fund only on warrant of the secretary of finance and
11 administration upon vouchers signed by the secretary of
12 veterans' services or the secretary's authorized
13 representative. Any unexpended or unencumbered balance
14 remaining at the end of a fiscal year shall not revert to the
15 general fund.

16 Section 4. DUTIES OF THE SECRETARY.--

17 A. The secretary shall conduct a study in
18 cooperation with the taxation and revenue department to
19 determine whether Native American veterans who were domiciled
20 on tribal lands during the period of their active military
21 duty had state personal income taxes improperly withheld from
22 their pay and if so, to determine the amount of state
23 personal income taxes improperly withheld and the number and
24 identity of Native American veterans or their survivors
25 affected by the improper withholding of state personal income

1 taxes.

2 B. The secretary shall promulgate rules for a
3 state program to compensate Native American veterans or their
4 survivors for state personal income taxes improperly withheld
5 from military income while on active military duty.

6 C. The secretary shall report to the appropriate
7 interim legislative committee no later than October 1 of each
8 year regarding estimates of the amount of state personal
9 income taxes improperly withheld from the military pay of
10 Native American veterans, the number of Native American
11 veterans or their survivors affected by the improper
12 withholding of state personal income taxes, total
13 expenditures from the fund for the previous fiscal year and
14 the anticipated appropriations to the fund needed to pay for
15 settlements to be entered into for the next fiscal year.

16 Section 5. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect
18 immediately. _____

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